

# REPORT

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**DATE:** July 6, 2006

**TO:** Regional Council  
Community Economic and Human Development Committee

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**SUBJECT:** Regional Housing Needs Assessment (RHNA) Pilot Program

## **EXECUTIVE DIRECTOR'S APPROVAL:**

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### **RECOMMENDED ACTION:**

Approve the RHNA Pilot Program as amended per the options contained in this paper and pursue a legislative strategy to amend those portions of the State Housing Law that pertain to the COG's RHNA responsibility in substantial conformance to the Pilot Program before the end of the 2006 legislative session.

### **SUMMARY:**

This report reviews and evaluates several options related to two RHNA Pilot Program issue areas and offers recommendations based on extensive input and feedback received during public outreach and special workshop sessions. The key issues raised during the development of the program are presented in the following order:

1. The Appeals process
2. Integrating the AB 2158 planning factors with the growth forecasting process

Additionally, this report will examine key issues that are not exclusive to the Pilot Program and are pervasive in the discussion of housing assessment and allocation:

3. The "Gap" period between RHNA cycles
4. Avoiding further concentration of lower income households

There are also several attachments that are being provided as background material because they were important in the development of staff recommendations related to the key issues noted above:

- A matrix that formally responds to specific questions and comments submitted by Elected Officials and technical staff during outreach sessions and workshops;
- Draft legislative language for the RHNA Pilot Program that was distributed at the June 15, 2006 *Joint Meeting between the Regional/ Sub Regional Taskforce, Planning and Policy TAC, and the representatives of the Policy Committee* and proposed amendments based on the above referenced input and comments .

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If the Pilot Program is not approved then the following action will be required:

Implementation of a RHNA under the existing law, and identify funding of a minimum of one million dollars from various sources including a potential state budget appropriation, SCAG General Fund or from a RHNA fee or a combination.

## BACKGROUND:

At the conclusion of the last RHNA cycle's litigation, SCAG signed a Settlement Agreement that agreed to, in part, "Commit to a process in future RHNA cycles whereby the entire RHNA process is completed within time frames set forth in Article 10.6 of the Government Code" and "Agree to support legislative initiatives that call for local governments and regions to plan for a 20 year site inventory, based on natural increases in population and job growth, and which allow neighboring jurisdictions by agreement to share responsibilities for increasing the housing supply". (REF:: #2. (c) and (e) Settlement Agreement dated 9-24-04).

Since then, the Regional Council and Community, Economic and Human Development (CEHD) Committee have been informed of, and given feedback for, staff participation at several Housing Element Reform and CEQA Reform statewide working groups from the technical to the Executive levels. When it became obvious that no Housing law reforms were to be forthcoming in time for the next RHNA cycle, SCAG initiated a Pilot Program under guidance from the CEHD Policy Committee. This Pilot Program allows SCAG to complete the next RHNA cycle; as we agreed and refocuses housing planning efforts in Southern California to be policy based and integrated with regional planning; as we agreed.

## PUBLIC OUTREACH AND WORKSHOPS

The development and review of Draft RHNA Pilot Program has been extensive. Concept discussions and distributions of preliminary drafts have taken place over a period of time. A partial listing of the meetings held includes:

February 2, 2006	CEHD Action Item
April 6, 2006	Joint Meeting Regional Council and Policy Committees
April 24, 2006	Joint Meeting Regional Council and Policy Committees
May 1, 2006	Joint Meeting Regional Council and Policy Committees
May 4, 2006	CEHD Action Item
May 11, 2006	VCOG Board Meeting
May 18, 2006	Planning and Policy Technical Advisory Committee
May 25, 2006	Sub regional Coordinators meeting
May 25, 2006	OCCOG Board meeting presentation and discussion
May 31, 2006	CVAG/ American Planning Association Chapter Meeting
May 30, 2006	Pilot Program briefing to HCD, CSAC and other housing stakeholders
June 1, 2006	Retreat action item continued to July 6, 2006
June 1, 2006	CEHD Discussion
June 2, 2006	Retreat Discussion
June 15, 2006	Joint Meeting Regional/Subregional task Force, TAC and Policy Committees

## EVALUATION OF KEY ISSUES

### 1. The Appeals process

The Pilot Program encourages SCAG to reach a consensus with jurisdictions regarding housing allocation. In the event that a jurisdiction contests its housing allocation, there are two options to consider:

- A. Begin an informal appeals process described in Sections 15 and 16 of the Pilot Program Legislative Language [PASSED OUT AT JUNE 15 MEETING]. These sections simply allow SCAG to evaluate a jurisdiction's disagreement based on factors described in Section 5; thereafter SCAG will facilitate a trading process.
- B. Utilize a formal appeals process in which a jurisdiction can appeal their allocation based on the grounds of all AB 2158 planning factors. In this process, the grounds are either rejected or found within merit. If they are found within merit, SCAG will implement the appeals process in existing law (65584.D-I); limited to one round of appeals.

### Appeals Process Comparison of Options

Option	Pro	Con
Option A: Use existing Pilot Program language, SCAG makes an evaluation of the contention and facilitates a trading process accordingly	Integrates appeals process resolution with longer term policy objectives; anticipates future funding for incentives	Not defined enough for member support  Confusing as to who can trade within whom
Option B: After the draft allocation, local jurisdictions can appeal for a revision on one or more AB 2158 grounds. SCAG either (1) rejects the appeal on merit or (2) accepts the appeal and implements existing law to redistribute successful appeals; limited to one round of appeals	A jurisdiction has a wide scope of grounds to appeal since AB 2158 covers a large range of planning factors  This option avoids an endless, costly appeals process.	Blurs the line between a streamlined innovative Pilot Program and existing law

Staff recommends Option B on the grounds that it will provide a detailed formal appeals process for jurisdictions if they contest their housing allocation. The process will allow jurisdictions to adequately present their case and places responsibility on SCAG to meet the regional allocation if the case is determined to have merit. Many comments including feedback from stakeholders received called for an appeals mechanism in the Pilot Program and staff feels that Option B will address these concerns.

## 2. Integrating the AB 2158 planning factors with the growth forecasting process

SCAG will develop a 30 year growth forecast by 5 year increments for use in transportation, housing, air quality and California Blueprint planning. The integrated growth forecast includes three major variables: employment, population and households.

When the integrated forecast is used for the RHNA, households are then converted to housing units by adding vacancy and replacement housing factors. The Pilot Program calls for the regional total of housing units to be acceptable to HCD if they are within certain limits.

The existing planning factors known as “AB 2158” factors will be used early in the growth forecast process to help determine the amount and distribution of growth between subregions, cities and counties. These planning considerations and factors are listed below:

- i. To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other source, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:
  - Each member jurisdiction exists and projected jobs and housing relationship.
  - The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:
    - a. Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.
    - b. The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites and land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions.
    - c. Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.
    - d. County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.
  - The distribution of household growth assumed for purposes of comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.
  - Agreements between a county and cities in a county to direct growth toward unincorporated areas of the county.
  - Any other factors adopted by the council of governments.

It should be noted that the four remaining AB 2158 factors are now included as a part of the new appeals process using all AB 2158 factors in the Pilot Program.

This summer, SCAG will conduct numerous integrated growth forecast workshops throughout the region to provide additional opportunities for local jurisdictions input on AB 2158 and other growth capacity factors. At these workshops, participants will work in small facilitated groups to review maps depicting the 2004 RTP adopted growth forecast updated as development types. Based on local expertise, participants will evaluate and give feedback on the draft forecasted growth and local constraints as appropriate. This information will then be used to align forecasted regional growth with local land use intentions to the maximum extent possible.

The facilitator will use a laptop computer and the I-Places software at each workshop to enter the input mapped by the participants. I-Places will allow the participants to constantly monitor their progress and check on how they are balancing their local issues and with accommodating their share of the regional population, employment, and household growth. The goal is for cities to work together to refine the future capacity and opportunity for growth in the regional, subregional context.

The growth forecast process is underway and no changes are recommended.

### 3. The “Gap” period between RHNA cycles

How do local jurisdictions take “credits” for actual construction activity in the gap period that make up the first few years of the growth forecast?

The staff recommends that local jurisdictions take credits for actual construction activities in the 3-year gap period (2005-2008) that are above the growth forecasted for that gap period and apply those credits to the housing needs forecasted for the period between 2008 and 2014.

The period between the end of the last RHNA cycle in 2005 and the beginning of the next RHNA cycle in 2008 results in a three year “gap” caused by a one year suspension of the mandate to update the local housing element and a two year postponement of the requirement. The issue raised is: how do local jurisdictions take “credits” for actual construction activity in the gap period that make up the first few years of the growth forecast?

The housing needs projection can be annualized over the 2005 to 2035 forecasting period and summed for any intervals. For example, if a local jurisdiction has issued permits for housing that exceeds its total housing needs projected for the 2005 to 2008 period, the local jurisdiction shall be allowed to apply that “difference” or, “credit” toward its projected housing needs between 2008 and 2014.

### 4. Avoiding the further concentration of lower income households

Existing law does not allow the further concentration of lower income households in jurisdictions that house more than their “fair share.” The Regional Council has the ability to decrease new allocated housing need in areas that have a high concentration. Staff recommends no changes to existing law or the Pilot Program.

The Regional Council decision on how to avoid the further concentration of lower income households remains the same under both existing law and the RHNA Pilot program. The total regional need for

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affordable housing must be maintained through the process. Consequently, when lower income housing unit assignments are reduced in an impacted community, they must be offset by an increase in a non-impacted community. Options that are available when the RHNA is underway include, but are not limited to:

- Assigning no additional lower income housing units to impacted communities
- Adjust lower income housing needed to the county average by 100% or incrementally, i.e. 25%, 50%, 75% (existing RHNA law)
- Adjust lower income housing needed to the regional average by 100% or incrementally, i.e. 25%, 50%, 75% (existing SCAG policy)
- Assign need so that no jurisdiction receives a zero allocation of affordable housing

These are policy decisions that will be made at the Regional Council level, with help from a RHNA Subcommittee and the CEHD Committee, after the process is underway.

Staff recommends that the Community Economic and Human Development Committee immediately form a subcommittee to start policy discussion, debate and build up consensus regarding the following RHNA policy issues:

- Appropriate factors in determining housing allocation by income. Determine the method to address the concern of local jurisdictions with disproportionately high share of households in lower income category.
- Appropriate factors, such as weighing job growth and regional 2% strategy, etc. in determining housing allocation by local jurisdiction.
- Appropriate level of resources for producing affordable housing.
- Appropriate level of incentives or regulatory relief for land use strategies and designations consistent with regional growth forecast

## **FISCAL IMPACT:**

The action of approval of the RHNA Pilot Program to pursue legislation is included in the operating budgets for FY 2005-2006 and FY 2006-2007 of the Government Affairs Department and the Legal Department. The work described pertaining to the integrated growth forecast is included in both fiscal year budgets. The appeals process portion of the RHNA Pilot Program as well as preparation of the draft and final housing need allocation plans will require a budget amendment at mid-year to the FY 2006-2007 budget.